

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION

NHAN NGUYEN-NGOC,)	
)	
Petitioner,)	
)	
v.)	4:19-cv-01155-RDP-SGC
)	
MR. BENNER, Field Director, et al.,)	
)	
Respondents.)	

MEMORANDUM OPINION

On November 20, 2019, the Magistrate Judge entered a report recommending this *pro se* petition for writ of habeas corpus, filed pursuant to 28 U.S.C. § 2241, be dismissed without prejudice.¹ (Doc. 9). Although the report advised the parties of the right to object, no objections have been filed.

The Magistrate Judge's report recommended that the petition be denied because, although the petitioner blames the respondents for not removing him in a timely manner, multiple delays are due to the petitioner's refusal to cooperate in the removal process. (Doc. 6-1 at 3). The record reveals that, despite difficulties surrounding Petitioner's participation in obtaining travel documents, Respondent has managed to obtain those documents from Vietnam. (Doc. # 6-1 at


¹ The report and recommendation, mailed to Petitioner at his address of record, was not returned to the court as undeliverable. However, because the U.S. Immigration and Customs Enforcement website reflects Petitioner was transferred to a different facility, on December 11, 2019, the Magistrate Judge directed the Clerk to send a copy of the report and recommendation to the new facility. (Doc. 10).

3-4, Doc. # 8 at 14). Petitioner's own Affidavit Under Penalty of Perjury confirms that he acted to prevent his removal by refusing to board a plane arranged for him by Respondent. (Docs. 8 at 3). Because it is undisputed Respondent has obtained travel documents for Petitioner, there is no reason to believe that, with Petitioner's cooperation, he will not be removed imminently.² (*See* Doc. 6-1 at 3-4).

After *de novo* review of the entire file in this matter, including the report and recommendation, the court **ADOPTS** the Magistrate Judge's report and **ACCEPTS** her recommendation. Accordingly, the claims presented in this matter are due to be denied and dismissed without prejudice.

A separate order will be entered.

DONE and **ORDERED** this January 10, 2020.



R. DAVID PROCTOR
UNITED STATES DISTRICT JUDGE

² There are no disputed facts which are evident from the parties' submissions. Therefore, this is not like the situation in *Singh v. U.S. Attorney General*, No. 18-12915 (11th Cir. Dec. 23, 2019).